
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

JOSHUA CHATWIN,

Plaintiff,

v.

DRAPER CITY, ET AL.,

Defendants.

**ORDER DENYING
MOTION TO STRIKE**

Case No. 2:14-CV-375DAK

Judge Dale A. Kimball

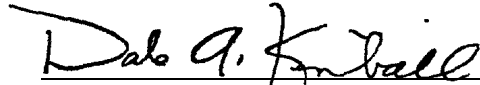
This matter is before the court on Defendants' Motion to Strike Late-Filed Amended Complaint. On February 3, 2015, this court granted Plaintiff leave to file his proposed Amended Complaint because Defendant had filed a notice of non-opposition to the motion. The court's Docket Text Order stated that Plaintiff shall file the Amended Complaint within seven days of the date of the Order. Plaintiff filed the Amended Complaint thirty-one days later. Plaintiff's counsel sent an email to Defendants' counsel when she filed the Amended Complaint explaining that she had not seen the email Docket Text Order from the court and, thus, completely missed the deadline. Plaintiff's counsel asked for opposing counsel's professional courtesy in answering the Amended Complaint rather than moving to strike it. However, Defendants' counsel chose to move to strike the Amended Complaint.

The court has seen similar mistakes with respect to Docket Text Orders. The court recognizes that all counsel will occasionally make a mistake. Plaintiff's counsel readily admitted

to the mistake and there is no prejudice due to the delay the mistake cause. The delay was not substantial and Defendants did not oppose Plaintiff's filing of an Amended Complaint in the first place. The court will not exercise its discretion to strike the Amended Complaint and would have preferred that Defendants' counsel had exercised their discretion in granting a professional courtesy to a fellow colleague of the Utah State Bar. Accordingly, Defendants' Motion to Strike Plaintiff's Complaint is DENIED.

DATED this 24th day of March, 2015.

BY THE COURT:



DALE A. KIMBALL
United States District Judge